IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 7TH FEBRUARY 2007 / 18TH MAGHA 1928

Crl.MC.No. 302 of 2007()

CC.397/2006 of JUDL.MAGISTRATE OF FIRST CLASS COURT-II, PALAKKAD
CRIME NO.158 OF 2006 OF MANKARA POLICE STATION

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PETITIONER: ACCUSED

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1. SUDHA W/O.ANANDHNARAYANAN, AGED 38 YEARS, ERALAMPULLY HOUSE, VELAYODI P.O., CHITTUR, PALAKKAD.

2. PRABHA, W/O.SURESH BABU, AGED 30 YEARS, BRAHMANNYAPURAM HOUSE, AYILOOR P.O., PALAKKAD.

3. THANKAM W/O. GOPALAN, AGED 60 YEARS, THOTTINKAL VEEDU, PAZHAMPALAKKODE, ALATHUR TALUK, PALAKKAD.

BY ADV. SRI.JOHNSON P.JOHN
SRI.BABY MATHEW

RESPONDENTS:-COMPLAINANTS

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1. STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

2. SUB INSPECTOR OF POLICE, MANKARA POLICE STATION, PALAKKAD DISTRICT.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 07/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.302 of 2007

Dated this the 7th day of February 2007

O R D E R

The petitioners are accused 3,4 and 5 in a prosecution under Section 498(A) I.P.C. They are the sisters-in-law (A3 and A4) and mother-in-law (A5) of the defacto complainant. The proceedings have been initiated against the petitioners as also against accused 1 and 2 (husband and father-in-law of the defacto complainant) on the basis of a private complaint filed by the defacto complainant before the learned Magistrate. The same was referred to the police under Section 156(3) Cr.P.C. Investigation was conducted, final report was filed and cognizance has been taken by the learned Magistrate. The case stands posted for appearance.

2. The petitioners have come before this court with the prayer that the proceedings initiated against them may be quashed and brought to premature termination by invoking the extraordinary inherent jurisdiction available to this court under Section 482 Cr.P.C.

3. What is the reason? The only reason urged is that the allegations are totally false and unacceptable. Only a copy of the complaint filed before the learned Magistrate is available before this court. The case diary statements of the relevant witnesses have not been made available.

4. It is trite that the disputed questions of fact cannot be resolved by this court while exercising the powers under Section 482 Cr.P.C. It is also trite that the mere fact that the accused may be entitled for discharge/acquittal is by itself not a sufficient reason to persuade this court to invoke the extraordinary inherent jurisdiction under Section 482 Cr.P.C. In the facts and circumstances of this case, I am satisfied that this is a fit case where the petitioners must appear before the learned Magistrate and seek discharge/acquittal. If they seek discharge under Section 239 Cr.P.C, the learned Magistrate must consider such claim and take appropriate decision under Section 239/240 Cr.P.C.

5. The petitioners are women and insistence on their personal presence is likely to cause hardship and loss to the petitioners, it is contended. I need only mention that it is open

to the petitioners to apply for exemption from personal appearance before the learned Magistrate. The learned Magistrate must pass appropriate orders on merits on such applications.

6. With the above observations, this Criminal Miscellaneous Case is dismissed.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006